

## Entry to the Gaza Strip

As all other aspects of life, the movement of Palestinians to and from the Gaza Strip leaves much room for abuse and heavy-handed decisions. As stated in the previous annual report, passage between the West Bank and the Gaza Strip, which in the Oslo Accords are recognized as a single political and territorial unit, has become all but impossible.<sup>5</sup> Since the interim agreement between Israel and the PLO was signed, the military has prohibited Israelis from entering the territories of the Palestinian Authority in the Gaza Strip. Although exceptions were made, the authorities recognized fewer of these as time went by, and since the current Intifada started practically no exceptions have been permitted. The only arrangement still in force – although not consistently – is that of divided families in which one of the partners is Israeli and the other Palestinian. According to the State, the prohibition to enter the Gaza Strip is driven by security, as explained in a HCJ hearing of the petition filed by several Knesset members who wished to go there.<sup>6</sup> In this hearing, the State argued that it is unable to protect Israelis inside Palestinian territory, and that it must therefore restrict them from going there. Even if this argument holds in the case of Knesset members, it hardly makes sense in the case of a Palestinian who wishes to go to Gaza to care for his or her bedridden mother, attend a wedding or console bereaved relatives. The prohibition on Palestinians who live in Israel or East Jerusalem to enter Gaza gives rise to suspicion that the State in fact has other motivations – to break up the Palestinian society into small, isolated and besieged groups. This concern intensifies when

considering the different policies practiced toward Jews and Palestinians: Jews entering the Strip (the settlements) are under a permanent threat to their lives, but they are nevertheless allowed in; Palestinians, even those who were born and raised in the Strip, are banned.



G.A., 41, who was born in Gaza, is married with four children, lives in Jerusalem and works for the municipality. In July 2002 he contacted HaMoked after his repeated applications to receive a permit to enter Gaza to visit his sick mother, had been refused. His 72-year-old mother is a widow who suffers from depression and serious chronic diseases and cannot care for herself. After repeated applications by HaMoked, G.A. indeed received a permit and spent two days with his mother in October 2002 and three in May 2003. In September 2003 HaMoked attempted to obtain another permit for G.A., but was flatly turned down. G.A. did not comply with the criteria, the authorities said. HaMoked then contacted the military Legal Advisor for the Gaza Strip to change this decision, which on the face of it seemed unreasonable. After several telephone conversations with the legal advisor's office, HaMoked realized that the office did not consider itself in a position to challenge the decisions of the authorities and that all they could do, at best, was to

<sup>5</sup> HaMoked: Center for the Defence of the Individual, **Annual Report 2002**, p. 58 ff.

<sup>6</sup> High Court Petition 9293/01, **Baraka et al. v. Defense Minister et al.**

serve as a go between. HaMoked tried to talk with the legal advisor in person, but was not able to reach him. After a letter sent by HaMoked was not answered either, HaMoked petitioned the HCJ, asking the IDF Commander in the Gaza Strip to allow G.A. in and explain why he has adopted a sweeping policy rather than deciding on a case-to-case basis. G.A. was then permitted into Gaza; the State thought it could avoid the hearing, but HaMoked demanded a hearing and an explanation as to the more general question: Why are Palestinian citizens or residents who live or reside in Israel or East Jerusalem not allowed into the Gaza Strip? As of the time that this report was compiled, no response has been received. The case will probably be heard by the court in September 2004. **(Case 17936)**

HaMoked hopes that once the HCJ discusses the principles that should govern military policy, the troubles of many other Palestinians prohibited from entering the Gaza Strip will also be over.

A.K. was born in Gaza and was awarded the status of a permanent resident of Israel due to her marriage to a domiciliary of Jerusalem. In 1985, A.K. and her husband divorced. She returned to Gaza and married a local, who passed away in 1996. The couple had a child. Since she was an Israeli resident, A.K. lived in

Gaza with her husband and their son, who was born in Gaza, under temporary permits. Because of the current Intifada, A.K. kept away from the Erez crossing, and she stayed in Gaza without a permit with her son. When she tried to have the permit renewed in September 2002, her application was denied. It is military policy that divided family procedures are only applicable when both spouses are alive; the unification between a mother and her son is not sufficient grounds for a permit to stay in Gaza. A.K. was forced to return to Jerusalem, leaving her son with relatives in Gaza. In October 2002 the son was seriously injured in a car accident and hospitalized in Gaza. A.K. then received a special two-day permit to visit him there. Due to her son's condition, A.K. was permitted to visit Gaza on several other occasions, for limited periods. A letter sent by the office of the military legal advisor for the Gaza Strip stated that under Islamic law and tradition, the orphan belongs to the father's family, and therefore, by law, A.K. does not have to be with her son. Although the law does not require her to do so, A.K. has taken advantage of the entry permit to Gaza and stayed with her son ever since. At the time this report was compiled, she was still there with him, ostensibly unlawfully and without being able to go to Jerusalem for fear that she would not be allowed back. **(Case 22979)**

## Leaving the Territories

Since the start of the occupation, the departure of Palestinians from the West

Bank and Gaza Strip to Jordan or Egypt has always been controlled by the military.